

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

WILLIAM BRANDON CUMMINGS,	)	
	)	
Plaintiff,	)	Civil Action No. 08-707
	)	
v.	)	Judge Joy Flowers Conti
	)	Magistrate Judge Bissoon
LT. CRUMB, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

The civil rights complaint filed by William Brandon Cummings ("Cummings" or "plaintiff") was received by the clerk of court on March 23, 2008, and was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges. The matter was referred to Magistrate Judge Cathy Bissoon on August 1, 2008, upon Magistrate Judge Caiazza's retirement.

Cummings filed a Motion for Injunction (Doc. No. 27) seeking an order directing his release from the restricted housing unit at the State Correctional Institution at Fayette. The magistrate judge's report and recommendation, filed on August 26, 2008 (the "August 2008 R&R"), recommended that the Motion for Injunction filed by plaintiff be denied (Doc. No. 32). The parties were allowed ten days from the date of service to file objections. Objections were due on or before September 12, 2008, and were

filed by Cummings on September 24, 2008 (Doc. No. 39). The objections raised questions concerning whether Cummings' sentence was illegal. He refers to the extraordinary circumstances which justify the injunction sought being "my illegal sentencing and the complaint matter." Objections Doc. No. 39 at 4.

The complaint matter mentioned appears to the criminal complaint underlying his conviction. Id. at 3 ("It is a fact that the criminal complaint for which I am illegally sentenced is not signed by an attorney of record for the Commonwealth or by the Commonwealth...."). Plaintiff's objections do not challenge the rationale for the recommendation to deny his motion for an injunction.

Cummings filed a "Motion for Show Cause Hearing" on August 26, 2008 (Doc. No. 33) which the court treated as a motion seeking a temporary restraining order. Cummings asserted arguments relating to his conviction being illegal. He argued that he was being held in involuntary servitude and was entitled to immediate release from custody. The magistrate judge's report and recommendation (the "September 2008 R&R"), filed on September 19, 2008, recommended that the Motion for Show Cause Hearing be denied (Doc. No. 38). The parties were allowed ten days from the date of service to file objections. Service was made on plaintiff by First Class United States Mail delivered to the State Correctional Institution at Fayette. Objections to the September 2008 R&R were due on or before October 7, 2008, but

none have been filed.

After de novo review of the pleadings and submissions in the record, together with the August 2008 R&R, the September 2008 R&R and the objections to the August 2008 R&R, the following order is entered:

AND NOW, this 19<sup>th</sup> day of November, 2008,

IT IS HEREBY ORDERED that the Motion for Injunction (Doc. No. 27) is DENIED.

The Report and Recommendation of Magistrate Judge Bissoon, (Doc. No. 32), dated August 26, 2008, is adopted as the opinion of the court.

IT IS FURTHER ORDERED that the Motion for Show Cause Hearing (Doc. No. 33), treated as a motion seeking a temporary restraining order, is DENIED.

The Report and Recommendation of Magistrate Judge Bissoon, (Doc. No. 38), dated September 19, 2008, is adopted as the opinion of the court.

IT IS FURTHER ORDERED that plaintiff's Motion for Expedited Show Cause Hearing (Doc. No. 39) included in his objections to the August 2008 R&R is DENIED as the matter is encompassed in the rulings on plaintiff's Motion for Show Cause Hearing.

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s/Joy Flowers Conti  
Joy Flowers Conti  
U.S. District Court Judge

CC:

WILLIAM BRANDON CUMMINGS

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